

STATE OF NEW HAMPSHIRE

PUBLIC EMPLOYEE LABOR RELATIONS BOARD

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 NASHUA ASSOCIATION OF SCHOOL PRINCIPALS )  
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 and )  
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 CITY OF NASHUA, NEW HAMPSHIRE )  
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CASE NO. M-0507

*77-30*

APPEARANCES

CITY OF NASHUA: H. Philip Howorth, Esq., Corporation Counsel; Dr. Berard Masse, Superintendent; T. Harrison Whalen, Nashua Board of Education; Lawrence E. O'Mara, Assistant Superintendent; and, Emma E. Nicol, Assistant Superintendent.

NASHUA ASSOCIATION OF SCHOOL PRINCIPALS: Gregory D. Prymak, Esq., Counsel; William G. Volante, Association President; William C. Marcoux, Junior High School Assistant Principal; Warren J. Toohig, Elementary School Principal; Charles J. Katsohis, Elementary School Principal; Roger C. Simpson, Senior High School Assistant Principal.

FINDINGS

1. On June 1, 1977, this Board was petitioned by the Nashua Association of School Principals, employees of the Nashua School System, to form a professional bargaining unit under RSA 273-A.

2. RSA 273-A:8, II, specifically refers to composition of professional and non-professional units and states that:

"Persons exercising supervisory authority involving the significant exercise of discretion may not belong to the same bargaining unit as the employees they supervise."

*School principals as bargaining unit*

While the language of the statute is somewhat unclear as to its specific meaning, PELRB has historically applied a broad interpretation of the statute and permitted professional bargaining units that otherwise meet the statutory tests of membership; and, clearly intended to permit group separations for bargaining unit construction.

3. The petition filed lists thirteen (13) Principals, seven (7) Assistant

Principals; and, two (2) Associate Principals in a proposed unit.

4. The Petitioner in its argument cited several NLRB cases dealing with the confidentiality aspect of the principals' positions and further that there had in fact been a confer/consult relationship between administrators as a group and the School Board since 1972, thus giving the administrator group an official defacto recognition for the same purposes which they now seek on an official basis.

The principals or administrators do in some measure have supervisory responsibilities over teachers and other school personnel but among themselves as a group there exists a community of interest clearly meeting the test of RSA 273-A:8 1(a), (b), (c), and (d), and the principals are not requesting to become a part of a bargaining unit with the teachers over which they exercise supervision.

The petitioner relied heavily on the past practice of the School Board in having in operation a confer/consult program for at least five years which in effect gave status and recognition to the principals group, which represents to the Board a historic relationship.

5. The Nashua Board of Education by its Counsel, H. Philip Howard, Esquire and the Superintendent objected to the petition on the basis that Principals, Associate Principals and Assistant Principals are not entitled to privilege of recognition as a bargaining unit under RSA-273-A, Section II (IX) because of their confidential relationship to the employer, Board of Education.

The Employer introduced witnesses and organizational charts, job specifications and policy manuals in support of their confidentiality contention; while their evidence indicated that the principals were

privity to certain information concerning individuals they supervised, it was not persuasive to the Board that it was of paramount importance and not of such a nature as to preclude them from joining as a group with the same community of interest for the purpose of representation. Certainly the confidential nature of the relationship of the principals to the Employer was not more or less than that found in the ordinary administrative structure.

6. To deny the principals a right to become members of a bargaining unit based on the confidential nature of their relationship with the public employer would be a denial of a public employee right under RSA 273-A. The final responsibility for supervision and direction of the principal rests with the Superintendent and the School Board.
7. There are certain instances where one or two of the principals sat in on negotiations with the teachers in an advisory capacity with no finality of decision input which to this Board appears to be a normal relationship.
8. After considering all the exhibits, testimony and post hearing briefs PELRB is of the opinion that the Nashua School Board's position that all principals are in a confidential relationship to the School Board is not valid. It did appear to the Board that there were certain of the principals' positions in the organization that did meet the test of confidentiality.

#### DECISION AND ORDER

1. That a bargaining unit of the Nashua Association of School Principals is created and may include Principals, Assistant Principals, Associate Principals with the following exceptions:

2. Excluded from the bargaining unit are the following positions:

- a) Principal of Nashua Senior High School
  - b) Assistant Principal, Nashua Senior High School
  - c) Principal, Elm Street, Junior High School
  - d) Principal, Fairgrounds Junior High School
- 3) Principal, Spring Street Junior High School

PUBLIC EMPLOYEE LABOR  
RELATIONS BOARD

By:

  
Edward J. Haseltine  
Chairman

Signed this 26th day of September, 1977.

Unanimous vote, Members, Haseltine, Anderson, Cummings and Moriarty voting.  
Absent: Member Allman